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FCC
Federal Communications Commission
445 12th Street, SW Room TW-B204
Washington, DC 20554

Dear FCC:

I would like the FCC and Congress to investigate and take action regarding the manner in which the NAB has conducted themselves regarding the following:

Yesterday, the Thanksgiving Day post lightly touched upon what the Washington Post uncovered recently: that many of the "comments" submitted to the fcc against the Sirius-XM merger were simply generated through a dubious pop-up ad campaign.

This issue goes far beyond the use of form letters. I'm no lawyer, but this appears to border on all out fraud.

Form letters can be a "useful" tool for large groups to assemble their thoughts en masse. I don't necessarily like them (I would much prefer the public submit in their own words), but at least the submitter is voicing their opinion and is aware of it.

But what the NAB has done here is not at all a case of "form letters."

The Washington Post discovered that out of the 60 people they contacted - many of the phones were actually disconnected, or went unanswered. Out of the 10 people they were actually able to talk to (which - in itself - is a ridiculous rate of failure), only 1 person - ONE PERSON - even remembered filling out something remotely related to satellite radio (and not even

being merger related).

So how did those comments get submitted to the FCC?

According to the Washington Post article, the NAB bought pop-up ads on websites like CarMax.com, Staples.com and PriceGrabber.com in August and September. The ad ran the headline, "The XM Radio/Sirius Merger will create higher prices. Stop the Monopoly!" - and users could click either, "Yes, I'd like to help stop the monopoly" or "No, thank you."

Those who clicked "yes" were asked to type in their contact information and later received a confirmation e-mail "detailing their action and providing a copy of the letter to be sent to the FCC," according an NAB spokesperson. Respondents were given the "opportunity to opt out of the process" and cancel submission of their letter.

If I'm reading that correctly... it means that any inaction to the email was considered confirmation. So if these emails were sent to the Spam folder, or were inadvertently deleted, the submission was still considered confirmed.

And there's another question...

So far only a little over 5,000 computer generated emails have hit the FCC and, as the article points out, many with the names and addresses of people who said they never filed any comments regarding the merger. But the NAB states in the article that 8,500 comments were "inspired" by this campaign.

That means some 3,500 more "comments" with dubious provenance are waiting to appear. Where are they? When will they show up? Why have they been withheld?

I don't care if you're pro- or anti-merger. If you have an opinion on the merger - whatever it may be - you should have submitted your comments to the FCC. That is your right as a citizen, and it's the whole purpose as to why the FCC has a public comment submission process.

These phony letters corrupt this entire process and are in sharp contrast

to the thousands of Americans who took time to write genuine, thoughtful letters to the FCC.

The fact that the NAB - which advocates on behalf of over 8,300 radio and television stations and networks, and has an annual NAB Radio Show which reportedly is attended by over 110,000 industry professionals - simply cannot garner enough genuine public support for their agenda is telling. Very very telling.

But just because the public isn't agreeing with a lobbyist's position doesn't mean they should resort to these tactics. It is the public who should decide how to voice their opinion, not a special interest group.

A Call To Action:

The more I think about this, the more angry I get. Again, we're not talking about form letters (which, sadly, is a standard lobbying practice) - I'm talking about people participating as part of a legal process without knowing they are. In the Washington Post article, it was pointed out that a poll of 350 congressional staffers conducted by the Congressional Management Institute in 2005 indicated that half of them did not believe that form-letter messages were sent with the knowledge or approval of constituents.

How long has this been going on? How many other comments from "the public" aren't genuine? How exactly are all these comments being extracted, especially considering WaPo's astonishing rate of failure in contacting submitters? Are these in fact even real people?

It is necessary for the NAB to be held accountable on this issue. If the FCC and Congress do not investigate and take action, then its members are not doing their job.

Sincerely,

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